BEST AVAILABLE COPY

PATENT APPLICATION FEE DETERMINATION RECORD
Effective October 1, 2001

Application or Docket Number: 10090054

CLAIMS AS FILED - PART I

	(Column 1)	(Column 2)
TOTAL CLAIMS	55	
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	55 minus 20=	* 55
INDEPENDENT CLAIMS	12 minus 3 =	* 9
MULTIPLE DEPENDENT CLAIM PRESENT		☐

* If the difference in column 1 is less than zero, enter "0" in column 2

SMALL ENTITY TYPE ☐			OTHER THAN SMALL ENTITY	
RATE	FEE	OR	RATE	FEE
BASIC FEE	370.00	OR	BASIC FEE	740.00
X$ 9=		OR	X$18=	630
X42=		OR	X84=	756
+140=		OR	+280=	
TOTAL		OR	TOTAL	2126

CLAIMS AS AMENDED - PART II

11/2/04

AMENDMENT A

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	* 55	Minus	** 55	=
Independent	* 12	Minus	*** 12	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

SMALL ENTITY			OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	
X42=		OR	X84=	
+140=		OR	+280=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

1, 8, 14, 19, 22, 27, 30, 35, 40, 41, 47, 53

3/4/05

AMENDMENT B

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	* 32	Minus	** 55	= 0
Independent	* 6	Minus	*** 12	= 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X$ 9=		OR	X$18=	0
X42=		OR	X84=	0
+140=		OR	+280=	0
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	0

AMENDMENT C

	(Column 1) CLAIMS REMAINING AFTER AMENDMENT		(Column 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Column 3) PRESENT EXTRA
Total	* 71	Minus	** 55	= 16
Independent	* 11	Minus	*** 12	= 2
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM				☐

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X$ 9=		OR	X$18= 50	800
X42=		OR	X84= 200	400
+140=		OR	+280=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	1200

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

AUG 04 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Michael Fripp, et al.
Serial Number:	10/090,054
Filing Date:	March 1, 2002
Title:	Valve and Position Control Using Magnetorheological Fluids
Examiner:	Daniel P. Stephenson
Art Unit:	3672

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

RESPONSE TO FINAL OFFICE ACTION

Sir:

No fees are believed to be due, but the Commissioner is hereby authorized to charge any necessary fee to Deposit Account No. 50-0392 of Carstens & Cahoon. LLP. No extension of time is believed to be due, but any necessary extension is hereby requested.

In response to the Final Office Action mailed June 1, 2005, Applicants offer the following remarks:

Claims begin on page 2 of this paper.

Remarks begins on page 18 of this paper.

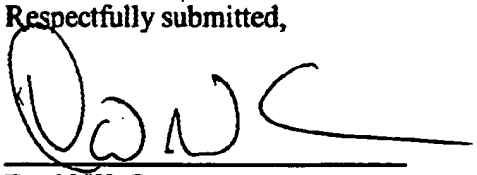
Further, Examiner's contention that, "[i]t is common knowledge to one of ordinary skill in the wellbore art that the activation of downhole objects is preferred to be done by an operator instead of a variable of the wellbore that might change," is unsupported by the teachings of Burleson. Burleson teaches that conditions downhole are "generally predetermined or known conditions."[1] There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge can not come from the applicant's invention itself. *In re Oetiker*, 977 F.2d 1443, 1447, 24 U.S.P.Q.2d 1443, 1446 (Fed. Cir. 1992). Applicant traverses Examiner's assertion and requests that Examiner cite a reference in support of his position as required by MPEP § 2144.03.

In view of the above, Applicant respectfully submits that the rejection of claims 1-15 is overcome. Accordingly, it is respectfully urged that the rejections of claims 1-15 not be sustained.

CONCLUSION

It is respectfully urged that the subject application is now in condition for allowance. The examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,



David W. Carstens
Registration No. 34,134

Date: August 1, 2005

CARSTENS & CAHOON, LLP
P.O. Box 802334
Dallas, TX 75380
(972) 367-2001 *Telephone*
(972) 367-2002 *Facsimile*

[1] See col. 1, lns. 10-13.

MAR 04 2005

PTO/SB/17 (12-04)
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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 180.00

Complete if Known	
Application Number	10/090,054
Filing Date	March 1, 2002
First Named Inventor	Michael Fripp et al.
Examiner Name	Daniel P. Stephenson
Art Unit	3672
Attorney Docket No.	2001-IP-004288 U1 USA (AHALL.0138)

METHOD OF PAYMENT (check all that apply)

☑ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 50-0392 Deposit Account Name: Carstens & Cahoon

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☑ Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____	x _____	= _____

HP = highest number of total claims paid for, if greater than 20

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)
_____	_____

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____	x _____	= _____

HP = highest number of independent claims paid for, if greater than 3

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number)	x _____	= _____

4. OTHER FEE(S)

Fees Paid ($)

Non-English Specification, $130 fee (no small entity discount)

Other: Information Disclosure Statement Fee $180.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 34,134	Telephone 972-367-2001
Name (Print/Type)	David W. Carstens		Date 3/1/05

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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